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ABSTRACT

This digest summarizes ethical and legal issues affecting school counselors. It emphasizes the importance of ethical standards, and of knowing the content, purposes, and limitations of professional codes of conduct as general guidelines for addressing difficult issues. Advice is offered on how to address colleagues' unethical behavior, and on counselors' legal responsibilities in the areas of confidentiality and privileged communication. (TE)

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HIGHLIGHTS ...An ERIC/CAPS Digest

Ethical and Legal Issues in School Counseling

Introduction

School counselors often ask questions such as, "What should I have done in that situation?" or "Did I do the right thing?" This desire for information and feedback regarding difficult cases was reiterated by respondents to a *Membership Survey* conducted by the American School Counselor Association (ASCA) in 1988, wherein the need for ethics information was ranked among the top concerns. Why are we seeing this ongoing interest in ethical and legal issues? Why are we seeing an increase in the literature in these areas? It is hoped that the counseling profession as a whole is becoming more aware of, and sensitive to, the need for ethical practice; that is, the importance of practicing ethically within the law. Perhaps the increase in litigation involving educators and mental health practitioners is a factor. Certainly the laws are changing or at least are being interpreted differently, requiring counselors to stay up-to-date. The process of decision-making and some of the more complex issues in ethical and legal areas are summarized in this digest.

Ethical decisions are usually not clear-cut; they tend to be in the "gray areas" rather than in "black and white." Furthermore, the "right" answer in one situation is not necessarily the "right" answer in a similar case at another time. As society changes, the issues change; and, indeed, as counselors change, their perspectives change. If we understand and accept the fact that ultimately counselors will have to struggle with themselves to determine the appropriate action in each situation, then we realize the importance of ethical and legal awareness and sensitivity. We then also understand the need for periodic re-examination of the issues throughout our professional lives (Huey & Remley, 1988).

Ethical Standards

The importance of knowing the contents of professional codes of conduct and the purposes and limitations of such codes is essential to the understanding of ethical and legal issues in school counseling. Although detailed memorization of the ethical codes is not required, school counselors should have at least a basic understanding of their ethical responsibilities as defined in these documents (Huey, 1987).

The ethical standards of ASCA and the American Association for Counseling and Development (AACD) present school counselors with the behaviors to which they should aspire and give general guidelines for addressing difficult issues. They do not, however, necessarily provide answers to the many specific dilemmas that practitioners will face. When the standards do not provide enough direction, counselors are encouraged to consult with colleagues, professional experts, and perhaps their administrative supervisors before taking action.

Almost all professionals, at some point in their career, suspect or become aware of a colleague's unethical behavior. School counselors are obligated to address any conduct by a colleague that could cause harm to clients. Counselors should: (a) try to resolve the issue by confronting the colleague directly, if possible; (b) report the behavior to a superior, professional association, or credentialing authority if a direct confrontation is not possible or is not effective; and (c) take steps to protect any vulnerable clients.

Privacy, Confidentiality, and Privileged Communication

Confidentiality and privileged communication are two related issues that school counselors often confuse. Information clients relate to school counselors should be kept confidential with the following general exceptions: (a) the client is a danger to self or others; (b) the client or parent requests that information be related to a third party; or, (c) a court orders a counselor to disclose information.

Although all school counselors have a confidentiality responsibility, very few relationships with students are considered privileged. Privileged communication is granted only by statute and guarantees clients that a court cannot compel a counselor to disclose information related in confidence. Such statutory privileges belong to clients rather than to counselors, and most states do not grant privileged communication in school counseling relationships.

Legal Issues

Legal standards of practice are different from ethical standards. Generally, legal standards are related to accepted professional practices in the community while ethical standards tend to be idealistic.

Many schools have policies that differentiate between the rights of custodial and noncustodial parents, and school counselors are often required to implement such policies. The law is clear that, barring a specific court order to the contrary, noncustodial parents have all rights regarding their children except the right to have custody of the children permanently in their homes.

When federal legislation known as the 1978 Hatch Amendment was passed and revised regulations were issued in 1984, a great deal of misinterpretation occurred that inhibited the offering of school counseling services. Eventually it was realized that the amendment's requirement of written parental consent for children to participate in certain school programs covered only a narrow range of activities that were federally funded, were experimental in nature, and involved psychological tests or treatment.

School counselors often play a major role in administering the school's testing program. School counselors should

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provide expert advice to school policymakers regarding the appropriate use of tests. Counselors should assist in evaluating each test to determine whether it: (1) discriminates in any way against any segment of the school population, (2) is valid and reliable, (3) is appropriate for the purposes for which it is being used, and (4) is necessary to achieve the school's objectives. Moreover, the counselor is responsible for interpreting test results for students in a clear and understandable manner.

The laws regarding abortions for minors are changing (Talbutt, 1983). Generally, school counselors may discuss a student's decision of whether to seek an abortion with the student, but they should also encourage parental involvement when possible. Each case must be decided individually based on the facts as presented.

The School Counselor and Child Abuse

In most states, school counselors are obligated to report suspected cases of child abuse. While the mandate is clear, issues must be resolved such as appropriate reporting procedures, relationships with investigators and prosecutors, and appropriate interactions with the family.

Ethical Issues in Group Work

Group counseling presents ethical issues not found in individual interventions with clients. The advantages of a comprehensive group counseling program are numerous; however, school counselors who direct such programs need to be familiar with potential ethical problems.

Although group counseling in general presents special problems, providing group counseling for children introduces issues not found when working with adults. Although the ASCA *Ethical Standards for School Counselors* (1984) does not directly address group counseling, some specific guidelines are found in the AACD *Ethical Standards* (1988). The ASGW *Ethical Guidelines for Group Counselors* (1989) provides additional direction.

Special Issues

Computers. School counseling offices are increasingly utilizing computers and computer products. School counselors have made attempts to understand and utilize this modern technology, but many counselors are still unaware of the ethical issues involved in the use of computers. It is imperative that professional associations develop ethical standards regarding computer use. Moreover, the importance of direct counselor-client contact in conjunction with the use of computers must be stressed.

Cultural diversity. School counselors have a responsibility to provide services for all students, including those from other cultures. The counseling profession is a Western culture phenomenon; however, school counselors constantly interact with families and children who speak languages other than English, adhere to values different from those of the counselor, and conform to social expectations that may seem odd to the American school environment. The unique ethical issues involved in counseling multicultural populations need to be addressed.

Research. There is an increasing demand for school counselors to engage in field-based research. Documenting program effectiveness can do more to promote school counseling than all public relations efforts combined. But even if school counselors never conduct research themselves, they need to know the rights of students involved in research projects, the responsibilities of researchers, and other research-related ethical issues.

Sexual Intimacy. Perhaps the most pressing ethical problem in the counseling profession is sexual intimacy with clients. School counselors are involved less often in sexual relationships with clients than are their colleagues who counsel adults. Nevertheless, clients, no matter what their age, often introduce sexual dimensions into the counseling relationship. Counselors who are faced with sex and intimacy boundary issues in their professional counseling roles must respond in a manner that is consistent with ethical guidelines.

Conclusion

An interactive dialogue about ethical dilemmas generally provides the best framework for learning and professional growth (Larrabee & Terres, 1985). State departments of education, local school systems, and counselor education departments are strongly encouraged to offer courses, workshops, and programs on ethical and legal issues. The ASCA Ethics Committee is available as a resource to help plan and implement such programs. Inquiries should be addressed to the ASCA Ethics Committee, American School Counselor Association, 5999 Stevenson Avenue, Alexandria, VA 22304.

References

American Association for Counseling and Development. (1988). *Ethical standards.* Alexandria, VA: Author.

American School Counselor Association. (1984). *Ethical standards for school counselors.* Alexandria, VA: Author.

Association for Specialists in Group Work. (1989). *Ethical guidelines for group counselors.* Alexandria, VA: Author.

Huey, W. C. (1987). Ethical standards for school counselors: Test your knowledge. *The School Counselor, 34,* 331–335.

Huey, W. C., & Remley, Jr., T. P. (1988). *Ethical and legal issues in school counseling.* Alexandria, VA: American School Counselor Association.

Larrabee, M. J., & Terres, C. K. (Eds.). (1985). Ethical and legal issues [Special issue]. *Elementary School Guidance and Counseling, 19*(3), 181–189.

Talbutt, L. C. (1983). Current legal trends regarding abortions for minors: A dilemma for counselors. *The School Counselor, 31,* 120–124.

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